

The Honorable Richard A. Jones

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

ROBERT RYAN POWELL,

Defendant.

NO. CR15-244 RAJ

ORDER GRANTING DEFENDANT'S
MOTION TO CONTINUE TRIAL DATE

This matter came before the court upon the motion of counsel for the defendant, requesting a continuance of the trial. Having considered the files and records herein, including the declaration of counsel filed in support of the motion and exhibits thereto, and the response of the government, and considering the statements of counsel at a hearing conducted on this date, the court has concluded, in the exercise of its discretion, that the motion is meritorious and should be granted. Therefore,

THE COURT FINDS AND ORDERS AS FOLLOWS:

The Superseding Indictment, filed on October 28, 2015, contains four counts. Count 1 charges that the defendant violated 18 U.S.C. §2423(a) in that, during August 2014, he transported C.C., a juvenile female, from Washington State to San Jose, California, with intent that she engage in prostitution, in violation of 18 U.S.C. §2423(a).

1 Count 2 charges that during August 2014, Mr. Powell transported N.C., a juvenile
2 female, from Washington State to San Jose, California, with intent that she engage in
3 prostitution, in violation of 18 U.S.C. §2423(a).

4 Count 3 charges that between January 2014 and January 2015, the defendant
5 recruited, enticed, harbored, transported, provided and obtained B.M., knowing that force,
6 fraud and coercion would be used to cause B.M. to engage in commercial sex acts, in
7 violation of 18 U.S.C. §§1951(a)(1) and (b)(1).

8 Count 4 charges that the defendant persuaded, induced, enticed and coerced B.M. to
9 travel from Washington State to Nevada on June 4, 2014, to engage in prostitution, in
10 violation of 18 U.S.C. §2422(a).

11 A number of legal issues have been presented to the court by motions *in limine* and
12 other pretrial motions (twelve motions filed by the defense, three motions filed by the
13 government). The court has recently addressed many of the pretrial motions, *see* Omnibus
14 Order on Pretrial Motions, Dkt. #111. However, the court takes notice of the fact that
15 litigation of the pretrial motions has consumed a substantial amount of time on the part of the
16 attorneys for both parties.

17 During the period when pretrial motions were being litigated, the government
18 continued to make discovery available to the defense. It is undisputed that between January
19 25, 2016 and February 2, 2016, the amount of material made available to the defense more
20 than doubled, increasing by 7,026 pages.

21 Based on the foregoing, the court makes the following FINDINGS AND
22 CONCLUSIONS:

23 1. Defense counsel has exercised due diligence thus far, in reviewing discovery
24 materials and in preparing and responding to pretrial motions;

25 2. It would not have been possible for defense counsel to conduct a meaningful
26 review of the 7,026 pages of additional discovery, even if the disclosure of those materials
27 had not coincided with a period during which pretrial motions were being intensively
28 litigated.

1 3. The case is so complex, due to the nature of the prosecution, that it is unreasonable
2 to expect adequate preparation for trial, with the exercise of due diligence, within the time
3 limits established by the Speedy Trial Act, 18 U.S.C. §3161(h)(7)(B)(iv).

4 4. Failure to grant a continuance in this case would likely result in a miscarriage of
5 justice because the defendant would be denied the reasonable time necessary for effective
6 preparation, taking into account the exercise of due diligence, 18 U.S.C. § 3161(h)(7)(B)(i).

7 5. The court finds that the ends of justice will best be served by a continuance and
8 outweigh the best interests of the public and the defendant in a speedier trial, within the
9 meaning of 18 U.S.C. §3161(h)(7)(A).

10 6. Defendant has filed a waiver of speedy trial in support of this motion.

11 THE COURT FURTHER FINDS, pursuant to 18 U.S.C. §3161(h)(7)(B)(iv) and 18
12 U.S.C. § 3161(h)(7)(A), that the requested period of delay is reasonable.

13 THE COURT FURTHER FINDS, pursuant to 18 U.S.C. §§ 3161(h)(7)(A), that the
14 ends of justice will best be served by a continuance and that the ends of justice outweigh the
15 best interests of the public and the defendant in a speedier trial.

16 THE COURT FURTHER FINDS that the additional time requested, between the
17 current trial date (February 22, 2016) and the proposed new trial date (in May, June, or July,
18 2016), is necessary to provide counsel the reasonable time necessary to prepare for trial.

19 NOW, THEREFORE, THE COURT ORDERS that Defendant's Motion to Continue
20 the Trial Date (Dkt. #113) is GRANTED. The trial date in this matter is continued from
21 February 22, 2016 to May 9, 2016. The parties are directed to appear at a pretrial
22 conference on April 22, 2016, at 9:00 a.m.

23 IT IS FURTHER ORDERED that the time between the date of this Order and the new
24 trial date of May 9, 2016, shall be excluded in computing the time within which a trial must
25 be held pursuant to 18 U.S.C. §3161, *et seq.*

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1 IT IS FURTHER ORDERED that no additional pretrial motions shall be permitted
2 unless such motions arise from the late-produced materials that have necessitated this trial
3 continuance.

4 DATED this 11th day of February, 2016.

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7 The Honorable Richard A. Jones
8 United States District Judge
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